

General Terms of Purchase for Trade Goods (“GTP Trade Goods”) of Otto (GmbH & Co KG) and its Group companies

1. Scope; Order placement

1.1 These General Terms of Purchase apply to all orders that Otto (GmbH & Co KG) or a company affiliated with the Otto Group in accordance with Art. 15 et seq. of the German Stock Corporation Act (*Aktengesetz, AktG*) (the “CUSTOMER”) issues to its suppliers (“SUPPLIER”).

1.2 Orders are generally issued through electronic transmission.

1.3 The following conditions apply exclusively. Any conditions that contradict or differ from these conditions are ineffective unless the CUSTOMER agrees to them in writing.

1.4 These conditions will be updated from time to time; the SUPPLIER will be informed in due time.

1.5 The CUSTOMER'S Business Partner Declaration for Merchandise applies in its currently valid version as provided to the SUPPLIER. It is also available at: [Link](#).

2. Intra-group clause

2.1 Any company in the Otto Group may pursue the CUSTOMER'S claims against the SUPPLIER.

2.2 If the CUSTOMER has no claims that it may set off in an amount equal to the SUPPLIER'S claims against the CUSTOMER, the CUSTOMER may set the SUPPLIER'S claims off against the claims of other companies of the Otto Group.

2.3 The CUSTOMER may forward the SUPPLIER'S goods or spare parts to other companies in the Otto Group.

3. Compliance with statutory provisions

3.1 The SUPPLIER shall comply with the applicable German laws and regulations, and the applicable regulations and directives of the European Union. The SUPPLIER shall also observe the relevant DIN, EN, and ISO standards, unless otherwise agreed.

3.2 The SUPPLIER shall ensure that laws, directives, and regulations are promptly considered before they enter force, to make sure the CUSTOMER may use or sell goods the SUPPLIER provides without violating laws, directives, or regulations that take effect later.

3.3 If it is agreed with the SUPPLIER that the goods are delivered in a different country, the SUPPLIER shall also comply with the provisions of that country.

4. Product safety; Insurance

4.1 On request, the SUPPLIER shall provide proof of compliance with the laws (e.g. Product Safety Act, e.g. certification or test mark of a verifying authority). If it does not provide that proof, or if it otherwise becomes evident that the product is not marketable, the SUPPLIER shall take back the article and refund the purchase price regardless of warranty periods. The SUPPLIER shall indemnify the CUSTOMER from any claims of the end customer, resulting from the product not being marketable.

4.2 During the period of cooperation and the obligatory limitation periods, the SUPPLIER shall maintain liability insurance (including product liability insurance) and product recall cost insurance with appropriate coverage. The SUPPLIER shall give the CUSTOMER confirmation of coverage from the insurer on request.

5. Quality guarantee

5.1 The statements of the SUPPLIER about the article made in an advertisement, on the label and in the assembly instructions must be complete and correct.

5.2 If a sample has been requested, the article delivered afterward must match the sample's main characteristics.

5.3 The SUPPLIER shall perform a final inspection.

5.4 If the delivered goods and their packaging do not meet the agreed criteria, the SUPPLIER shall reimburse the CUSTOMER for costs incurred from inspecting the goods, ascertaining the defect, sorting, changeover, and the like. Additional claims for the CUSTOMER'S damages remain unaffected.

6. Industrial property rights and copyrights

6.1 The SUPPLIER ensures that the offer and sale of the goods does not violate any rights of third parties (such as copyrights, patents, utility patents, design patents, trademarks, licenses, claims under competition law, and the like) within the Federal Republic of Germany and does not violate legal or regulatory rules. The same applies to the offer and sale of the article outside the Federal Republic of Germany if the SUPPLIER is informed in the respective purchase order that the goods it offers will be sold both inside and outside the Federal Republic of Germany.

6.2 The SUPPLIER shall indemnify the CUSTOMER and its affiliated companies from any third-party claims based on rights under item 6.1 and compensate them for any further damage, including loss of prospective profits.

6.3 If offering and selling the goods requires obtaining particular licenses (such as patents essential to a standard), the SUPPLIER shall obtain those licenses at its expense and provide a sublicense to the CUSTOMER at no cost.

6.5 Each time the SUPPLIER culpably violates one of the obligations above, the CUSTOMER may demand liquidated damages of EUR 10,000 or less. The amount of liquidated damages can be reviewed and may be adjusted by the court having jurisdiction. Further claims and rights remain unaffected.

7. Usage rights

7.1 The SUPPLIER provides the CUSTOMER with data material (e.g. offer and product data, texts, photographs, graphics, trademarks, logos, product descriptions, and technical specifications). If the data material is protected by copyright or other industrial property rights, the SUPPLIER grants the CUSTOMER the simple (non-exclusive) right, applicable everywhere, to reproduce, disseminate, and/or publish that data material in non-material form (including without limitation by making the data material publicly available, transmitting the data, and/or reproducing the data in image and sound recordings) and to sublicense it according to 7.2.

7.2 The CUSTOMER may use the data material provided by the SUPPLIER solely within the context of product presentation and advertising. In this respect, the CUSTOMER may also use and sublicense the data material to present and advertise identical products from other providers in the CUSTOMER'S online shops.

7.3 The CUSTOMER may adapt the data material to the technical requirements and may remove the background from product images (release of product images).

7.4 The CUSTOMER is not required to name the creator of the data material when exercising the rights it has been granted.

7.5 The usage rights will remain in effect during the parties' contract relationship and for two months thereafter, so the contract relationship can be technically wound up.

7.6 The SUPPLIER shall discontinue any use of the data material on third-party platforms after termination of the contract, insofar as this is customary on the respective platforms and possible with reasonable effort. The SUPPLIER has to inform the CUSTOMER before charging a claim against him and has to give him at least 14 days to remedy the situation.

7.7 The SUPPLIER ensures it is entitled to the aforementioned licensing rights to the transmitted data material. In this respect, the SUPPLIER ensures that the contents of the data material do not violate the rights of third parties or any other legal rules.

7.8 The SUPPLIER shall indemnify the CUSTOMER on first request from claims asserted by third parties based on the contractual use of the transmitted data material.

8. Packaging and labelling

8.1 The goods must be labelled, packaged, and shipped in compliance with the packaging and shipping instructions given by the CUSTOMER. If there are no specific instructions, items must be labelled, packaged and shipped in a suitable manner and with due diligence.

8.2 Textiles must be labelled in compliance with the European Textile Labelling Act.

8.3 Unless otherwise agreed, if the SUPPLIER or its agent is located in the EEA, the SUPPLIER is obligated under the provisions of the Product Safety Law to indicate its company or its agent's company with a postal address on the product.

9. Private labels, licensed brands

9.1 Delivering articles that the SUPPLIER has manufactured specially for the CUSTOMER (such as private labels and licensed brands) to third-party buyers is forbidden both during and after termination of the supply contract.

9.2 The SUPPLIER shall purchase the label, (hang) tags, and buttons to be used for textiles solely from the companies specified by the CUSTOMER. If the SUPPLIER culpably violates this rule, the CUSTOMER may determine liquidated damages, the amount of which will be based on the type of violation, the severity of culpability, and the scope of impact. The amount of liquidated damages can be reviewed and may be adjusted by the court having jurisdiction.

9.3 In addition to 8.2, labelling specified by the CUSTOMER with respect to the supplier ID and any size indications must be permanently affixed to each article (by means of a sewn-in tag, for example). In addition to 8.3, the SUPPLIER shall forward to the CUSTOMER in textform without undue delay any safety-related or adverse health complaints from customers or inquiries by authorities relating to the private label articles.

9.4 The SUPPLIER shall treat as confidential all the drawings, samples, and models it is given. Industrial property rights and copyrights to those drawings, samples, and models remain with the CUSTOMER. The SUPPLIER shall return the documents to the CUSTOMER with the final delivery or delete them, if they were made available in digital form.

9.5 The SUPPLIER shall indemnify the CUSTOMER from all claims under product liability law and compensate the CUSTOMER for any damage (such as recall costs, interest losses, and attorney's costs) related to the product liability law.

10. Place of performance and transport

Unless otherwise regulated in an individual contract, the SUPPLIER shall deliver the ordered goods to the warehouse named in the order (or for direct shipments, to the end customer) at its own expense and risk.

11. Delivery deadlines

11.1 All agreed delivery deadlines are binding. The SUPPLIER shall inform the CUSTOMER without delay, via the given system interface, if circumstances arise that will make it impossible to meet the agreed delivery deadline.

11.2 If the SUPPLIER is in default, the CUSTOMER will be entitled to the legal claims. In particular, the CUSTOMER may set a reasonable grace period and, if that period expires in vain, may withdraw from the contract and demand damages in lieu of performance. If that occurs, the CUSTOMER may make covering purchases and charge the additional costs to the SUPPLIER.

11.3 The SUPPLIER shall not fulfil an order before the agreed time.

12. Liquidated damages

12.1 If the SUPPLIER exceeds the delivery date agreed to between the parties, the CUSTOMER may demand liquidated damages amounting to 0.3% of the purchase price (net) per working day, but no more than 5% of the purchase price (net) in total (subject to further provisions).

12.2 After accepting a delayed performance, the CUSTOMER shall not claim liquidated damages after he has made the payment.

12.3 The amount of liquidated damages can be reviewed and adjusted by the court having jurisdiction.

13. Obligations to perform inspections and give notice of defects

13.1 Notwithstanding the final inspection that the SUPPLIER shall perform in accordance with item 5.3, the CUSTOMER shall regularly inspect the goods per ISO 2859-1 (AQL sampling system). Regarding the inspection that the CUSTOMER shall perform under § 377 of the German Commercial Code (*Handelsgesetzbuch, HGB*), the SUPPLIER acknowledges that only evident defects must be reported immediately; otherwise, the notice of defects is deemed to be on time if the CUSTOMER gives it within 14 days after the defects are discovered.

13.2 The SUPPLIER acknowledges that it must obtain approval from its liability insurer for the preceding contract provision in order to maintain existing coverage without limitation.

13.3 The SUPPLIER shall provide the names and addresses of its subsidiaries on request. On consultation the SUPPLIER will give the CUSTOMER access to its production facilities for the ordered articles and to the production facilities of its subsidiaries and shall permit audits to be performed.

14. Prices

The agreed prices include the packaging required by the CUSTOMER and the specific shipment. Price increases after order placement will not be accepted.

15. Delivery, Invoicing

15.1 Every delivery of goods must include a delivery note but no invoice.

15.2 The SUPPLIER'S invoice must not include articles from more than one purchasing department of the CUSTOMER.

15.3 The invoices of the SUPPLIER must include the following CUSTOMER-specific information: supplier ID (LKZ), CUSTOMER order number and date, CUSTOMER article number, CUSTOMER purchasing department.

15.4 The invoices must include the following further information: delivery address, delivery note number, type of shipment, number of packages, customary description of the goods incl. EAN, design, colour, size, quantity, gross and net weight.

15.5 The invoice must also include: invoice and tax ID numbers of the SUPPLIER. For electric and electronic devices, the SUPPLIER'S or manufacturer's registration number under the “German Act on the Marketing, Recall, and Environmentally Friendly Disposal of Electric and Electronic Devices” (*Elektro- und ElektronikgeräteeGesetz, ElektroG*). In addition, the LUCID registration number must be indicated and, in the case of sales packaging and secondary packaging, the name of the take-back system at which the packaging is licensed.

15.6 Invoices that do not meet the aforementioned or the formal requirements of § 14 of the German VAT Act (*Umsatzsteuergesetz, UStG*) will be deemed not to have been received by the CUSTOMER, and the SUPPLIER shall reissue them on request.

16. Payment

16.1 Payment and discount periods shall not commence until the goods and the invoice have been received by the CUSTOMER.

16.2 The payment deadline is deemed met when a form of payment is sent or a payment order is issued to the bank.

16.3 The CUSTOMER may set off receivables that it owes against receivables that the SUPPLIER owes.

16.4 Payment of invoices will not affect any subsequent pursuit of rights. In particular, a payment does not constitute recognition of an obligation to pay, nor of the ordering of the goods, nor that the goods are complete and free of defects.

17. Taxes

17.1 If the CUSTOMER is obliged under applicable German law to withhold taxes from the amounts payable to the SUPPLIER and to pay them to the competent tax authority, the CUSTOMER shall withhold the amount of tax to be withheld and pay it to the competent tax authority.

17.2 Upon request, the CUSTOMER shall provide SUPPLIER with evidence of the taxes withheld and paid to the tax authorities.

17.3 If SUPPLIER subsequently proves that no German tax should have been withheld, the CUSTOMER shall reclaim and refund to SUPPLIER the taxes wrongfully withheld.

17.4 If the CUSTOMER would have been obliged to withhold taxes but failed to do so and has to pay these taxes additionally (within the limitation period) to the German tax office, SUPPLIER shall reimburse the CUSTOMER for the costs incurred.

18. Right of retention and setoff; Right to withhold performance

18.1 The SUPPLIER may set claims off only against counterclaims that are undisputed or have been finally adjudicated.

18.2 The same applies to the assertion of a right of retention or right to withhold performance by the SUPPLIER. The SUPPLIER may assert those rights only if the counterpart rights are based on the same contract relationship. § 321 BGB remains unaffected.

19. Ban on assignment

Claims against the CUSTOMER may not be assigned, and any such assignment will be invalid. However, § 354 a HGB applies to the assignment of financial claims.

20. Expiration of claims of defect

20.1 Claims based on material defects or defects of title must be asserted no later than 30 months from the date on which the respective goods are delivered to the end customer. Those claims will be forfeited, however, 36 months after delivery to the CUSTOMER.

20.2 Longer statutory expiration periods are not affected by the preceding provision.

20.3 If the SUPPLIER provides newly delivered or repaired parts as supplementary performance, the limitation period for those parts will restart unless the SUPPLIER has evidently acted out of goodwill.

21. Customer evaluations

21.1 The CUSTOMER has an interest in the evaluations by customers in its online shops remaining unaltered.

21.2 Therefore, the SUPPLIER shall not request or encourage customers of the CUSTOMER or third parties to provide, modify, or delete an evaluation in any of the CUSTOMER's online shops by promising a reward for doing so.

22. Nondisclosure

22.1 The SUPPLIER undertakes to treat data of the CUSTOMER which it receives within the scope of this business relationship ("Data") confidentially and to use them exclusively for the implementation of this agreement or for the improvement of the production or distribution of the contractual goods within this contractual relationship.

22.2 Furthermore, SUPPLIER shall ensure that only employees who are in charge of the wholesale business (Wholesale), in particular the supply relationship with the CUSTOMER, receive the Data. If the SUPPLIER is also active in direct sales (retail), the SUPPLIER undertakes to take all measures to exclude internal disclosure of the PURCHASER's sales data to the SUPPLIER's employees responsible for direct sales (retail).

22.3 This obligation will remain in effect for at least two years after contractual activities end. If the SUPPLIER breaches the obligation, it is liable for damages.

22.4 If the SUPPLIER demonstrably breaches the nondisclosure obligation, the CUSTOMER may terminate the contract without notice and without prejudice to other rights.

23. Criminal and anti-constitutional organizations

23.1 The SUPPLIER shall not maintain any commercial or other connections with terrorists, terrorist organisations, or other criminal or anti-constitutional organisations.

23.2 The SUPPLIER shall ensure that appropriate organisational measures are taken to implement EU regulations nos. 2580/2001 and 881/2002 within its business operations.

24. Forum and applicable law

24.1 The forum is Hamburg, although the CUSTOMER may also sue the SUPPLIER at its registered office.

24.2 Legal relations shall be governed solely by the statutes of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (UNCITRAL, CISG).